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BOARD MEETING
STATE OF CALIFORNIA
INTEGRATED WASTE MANAGEMENT BOARD

JOE SERNA, JR., CAL/EPA BUILDING
1001 I STREET
2ND FLOOR
BYRAN SHER AUDITORIUM
SACRAMENTO, CALIFORNIA

WEDNESDAY, SEPTEMBER 19, 2007
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TIFFANY C. KRAFT, CSR, RPR
CERTIFIED SHORTHAND REPORTER
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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

BOARD MEMBERS

Ms. Margo Reid Brown, Chair

Mr. Wesley Chesbro

Mr. Jeffrey Danzinger

Ms. Rosalie Mul

Ms. Cheryl Peace

Mr. Gary Petersen

STAFF

Mr. Mark Leary, Executive Director

Ms. Julie Nauman, Chief Executive Director

Mr. Elliot Block, Staff Counsel

Ms. Kristen Garner, Executive Assistant

Mr. Howard Levenson, Deputy Director, Permitting and
Enforcement Division

Mr. Ted Rauh, Program Director, Waste Compliance and
Mitigation Program

ALSO PRESENT

Mr. Bob Hoffman, Oslan Sylvania

Mr. Bill McGavern, Sierra Club, California

Ms. Debbie Rafeal, City and County of San Francisco

Mr. Larry Sweetser, the Rural Counties Environmental
Services Joint Powers Authority

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1 PROCEEDINGS

2 CHAIRPERSON BROWN: Good morning. Welcome to the
3 September 19th Board meeting of the California Integrated
4 Waste Management Board. Call this meeting to order.

5 Kristen, can you call the roll?

6 EXECUTIVE ASSISTANT GARNER: Chesbro?

7 BOARD MEMBER CHESBRO: Here.

8 EXECUTIVE ASSISTANT GARNER: Danzinger?

9 BOARD MEMBER DANZINGER: Here.

10 EXECUTIVE ASSISTANT GARNER: Mulé?

11 BOARD MEMBER MULÉ: Here

12 EXECUTIVE ASSISTANT GARNER: Peace?

13 BOARD MEMBER PEACE: Here.

14 EXECUTIVE ASSISTANT GARNER: Petersen?

15 BOARD MEMBER PETERSEN: Here.

16 EXECUTIVE ASSISTANT GARNER: Brown?

17 CHAIRPERSON BROWN: Here.

18 Any ex partes to report?

19 Okay. I'll remind everybody in the audience to
20 please turn your cell phones to the vibrate mode. There
21 are speaker slips located on the back table if you're
22 interested in speaking to any of the agenda items.

23 The Board does not plan on going into closed
24 session today.

25 And I'll ask everybody to stand and recite the

1 Pledge of Allegiance.

2 (Thereupon the Pledge of Allegiance was recited
3 in unison.)

4 CHAIRPERSON BROWN: Thank you.

5 And now first this morning we have a very special
6 presentation to a very special member of our staff who
7 will be retiring. And I'd like to invite him up, and we
8 will read your Resolution, Lanny Clavecilla.

9 (Applause)

10 CHAIRPERSON BROWN: I think I've misspronounced
11 your name every day since I've been here. So today should
12 be no different.

13 We do have a very special presentation from the
14 Governor, and I'm going to read the Resolution that he
15 will get as well. But since we had this beautiful
16 presentation from the Governor, I'll give you that. And
17 I'm going to read parts of your Resolution.

18 "Whereas, Lanny Clavecilla began his State
19 career in 1972 at the Department of Motor
20 Vehicles where he served diligently prior to
21 becoming editor with the Department of Fish and
22 Game's Outdoor California magazine;

23 "And whereas, his 35 years of service has
24 earned him great respect and admiration from his
25 fellow staff, colleagues, and Board members he

1 has served during his tenure at CIWHB;

2 "Whereas, Lanny has been a spokesman for the
3 Board through many serious environmental crises,
4 including the devastating Westly and Tracy tire
5 fires that required multi-agency coordination to
6 fight, remediate, and restore for public safety;

7 "And whereas, Lanny has an insightfull grasp
8 and detailed understanding of intricate Waste
9 Board goals and programs such as the Five-Year
10 Tire Plan and the potentially dreadful
11 environmental impacts of electronic waste and
12 plastic trash bags that don't contain enough
13 recycled content or ever disasterate zombie
14 chicken incident;

15 "And where he has good naturedly made the
16 trek to places such as the far reaches of
17 northern California for a press conference on
18 illegal dumping only to find out that the local
19 partners had moved the event that morning without
20 notifying anybody, leaving him to resourcefully
21 resolve a host of logistical problems on the spot
22 and make sure that there was a front loader
23 available for CIWMB Board members to drive as
24 part of his superior photo op planning;

25 "And where his unique flare for capturing the

1 perfect message has resulted in such Board mottos
2 as: 'Zero waste, thanks for nothing,
3 California;' and, 'Zero waste, the final
4 frontier,' which all unfortunately fell on deaf
5 ears and never were to be seen by the public.

6 "And whereas, Lanny is leaving the Board to
7 enter into a life of fulfilled retirement where
8 he will without a doubt awake each and every day
9 eager to scan the media pages of the Internet and
10 prepare the morning coffee for staff of CIWMB.

11 "Now therefore be it resolved by the
12 Integrated Waste Management Board, that Lanny
13 Clavecilla will be missed by all who have worked
14 with him.

15 "And be it further resolved that the Board,
16 its entire staff, and the citizens of California
17 thank Lanny for his many years of dedicated
18 service and wish him happy years of retirement."

19 (Applause)

20 BOARD MEMBER CHESBRO: Madam Chair, I'd like to
21 add my words of thanks to Lanny, both for his friendship,
22 but also for his good work here at the Board. I had the
23 pleasure of working with him in both of my incarnations
24 here at the Board. He's been here for a while, and he's
25 done great work for us and always with an incredibly

1 optimistic positive attitude that I think has inspired
2 everybody around him, including me. So thanks. And good
3 luck with your retirement. I'm a little bit envious,
4 although I'm not quite there yet myself.

5 CHAIRPERSON BROWN: Thank you.

6 Actually, we would like to also -- I'd like to
7 yield to Member Mulé who has a couple of remarks regarding
8 a pioneer in the industry who has left us this week. And
9 we just want to pay tribute to Harry Aster. So I'd like
10 Rosalie to do that.

11 BOARD MEMBER MULÉ: Thank you, Madam Chair.

12 For those of you -- I think most of us know
13 California Refuse Removal Council and their membership and
14 the staff that works with them. And I do see one person
15 back there today, Evan Edgar.

16 Another person that works with us very closely as
17 a stakeholder is Kelly Aster. And he's general counsel
18 for CRRC south. But what most of you may not know is who
19 his father was, Harry Aster. Harry passed away last week.
20 And I up until very recently didn't realize his
21 contribution to the Waste Board and to the solid waste and
22 recycling industry in general. And I just want to share a
23 little bit about Harry with you just to pay tribute to his
24 contribution to what we do here every day.

25 Harry Aster was legal counsel for a number of

1 haulers in the Los Angeles area in the 40s and 50s. And
2 back in 1964, he incorporated the California Refuse
3 Removal Counsel as a trade association. More importantly
4 though, what Harry did was he was instrumental in the
5 development and passage of SB 5. And SB 5 was the first
6 Solid Waste Management Act which created this Board in its
7 first form if you will as a part-time Board. And I didn't
8 know that until recently when I made a presentation at the
9 CRRC Council's Next Generation Program.

10 And so again, I just want all of us to recognize
11 that we lost somebody who was really very, very important
12 to what we do here every day. So if you will just join me
13 in a moment of silence. Thank you.

14 (Thereupon a moment of silence was observed.)

15 BOARD MEMBER MULÉ: Thank you, Madam Chair.

16 CHAIRPERSON BROWN: Thank you. Now we'll move to
17 the Executive Director's Report and --

18 EXECUTIVE DIRECTOR LEARY: Madam Chair, good
19 morning. Good morning, members.

20 Speaking of very important people, I, too, have
21 someone I'd like to recognize and pass on your best wishes
22 in the form of the Resolution that you all have signed.
23 So on your behalf, I'd like to make a presentation to
24 Sharon Anderson. And Sharon is here in the audience with
25 her husband, Ron. And Ron is welcome to join us if you

1 want to join in the humiliation here, Ron. Or you can
2 stay there and watch from afar. But please, Sharon, come
3 up. And Julie and I would like to present you with this
4 resolution. Julie is going to hold it, Sharon.

5 Madam Chair, members, this Resolution reads,

6 "Whereas, the Integrated Waste Management Act
7 of 1989 established the Board to oversee the
8 state solid waste management in an effective and
9 environmentally sound manner. And Sharon
10 Anderson has worked in solid waste management
11 services for over 21 years."

12 She started at like eleven.

13 "And has ensured efficient delivery of
14 environmental and public protection to solid
15 waste services for the Board.

16 "And whereas, Sharon as enforcement agency
17 manager has executed the Board's programs through
18 ongoing efforts for statewide partnerships and
19 local enforcement agencies and was instrumental
20 in developmenting AB 1220 regulations and was
21 involved in development of partnership 2000,
22 which continues today, and has resulted in her
23 development and implementation of the annual
24 Local Enforcement Agency/Board Partnership
25 Conference. And was involved in the development,

1 coordination, presentation of numerous technical,
2 educational, and training programs for public and
3 private members of the solid waste community.

4 "Whereas, Sharon Anderson has served for many
5 years as a facilitator of communication within
6 the Board sponsored Enforcement Advisory Counsel,
7 Solid Waste Policy Committee of the California
8 Conference of Directors of Environmental Health,
9 the Solid Waste Technical Committee of the
10 California Environmental Health Association, the
11 Medical Waste Program of the California
12 Department of Health Services, as well as other
13 State agencies and local enforcement agencies.

14 "Sharon Anderson has actively supported the
15 Board's clients, co-workers, and stakeholders
16 both professionally and personally.

17 "Therefore be it resolved, the California
18 Integrated Waste Management Board hereby commends
19 Sharon Anderson for her many years of dedication
20 to the principles and purposes of this Board, her
21 efforts to support local environmental and public
22 health programs, and wishes her well in her
23 future pursuits."

24 Thank you, Sharon, on behalf of all of us.

25 (Applause)

1 BOARD MEMBER CHESBRO: Madam Chair, Sharon is
2 another person who's been with the Board for a long time
3 and has been instrumental in the development of the Board
4 and its programs. And one of the problems with being
5 around for a while is you see great people come, great
6 people develop, and great people leave. But I just really
7 would like to thank here and say I've enjoyed working with
8 you over all these years.

9 BOARD MEMBER DANZINGER: Here, here, Sharon.
10 You're going to be missed. Good luck.

11 CHAIRPERSON BROWN: Actually, she's a plant for
12 us over there. We're excited she's going carry on our
13 mission in her new pursuits.

14 BOARD MEMBER CHESBRO: That's the good news.
15 She's not really going away. She's going over.

16 CHAIRPERSON BROWN: Not going very far. Sharon,
17 if you stick around, as soon as we conclude, we'd like to
18 do some photos with you also.

19 Go ahead, Mark.

20 EXECUTIVE DIRECTOR LEARY: Madam Chair, I have
21 also some official business to do. I want to talk about a
22 couple subjects this morning.

23 One, our continuing efforts on precaution and
24 precautionary approach working with OEHHA. Talk a little
25 bit about our efforts on the commingled carry-out plastic

1 bag rate. And then thirdly, I'd like to talk about
2 upcoming events and closure and postclosure and financial
3 assurance.

4 In regards to precaution, earlier this year the
5 Board approved the funding in the amount of about \$200,000
6 for an interagency agreement with OEHHA to assist the
7 Board in creating and providing a precautionary approach
8 guide and document that ultimately will be used by all the
9 DBOs within CalEPA.

10 This project is going forward in collaboration
11 with all of Cal/EPA's environmental justice efforts and
12 has resulted from the extreme interest in this subject
13 from the external EJ Advisory Committee.

14 Board staff have completed initial task in
15 developing a working definition of precautionary approach
16 and compiled inventories of actions and programs within
17 the Cal/EPA DBOs that utilizes this precaution approach.

18 The next major task is to develop a guidance
19 document for the use by the BDOs with the input of
20 internal and external stakeholders. Given the work we
21 have remaining on this and the fact we've lost some
22 program staff, we've entered into an interagency agreement
23 with OEHHA, and they are providing the assistance we need
24 to further this effort. And with that contract in place,
25 and they have now a subcontract with U.C. Berkeley, one of

1 the world's renowned experts on this subject in
2 environmental justice areas, we now have the team and the
3 resources in place to continue our hard work on
4 precaution. The external advisory group has been formed
5 and efforts will begin with that group on cumulative risk
6 in October and November and in January on precaution. So
7 I'll continue to keep you updated on progress in this
8 effort.

9 We've also continued to work on developing
10 information for the interagency agreement to conduct the
11 commingled carry-out bag recycling rate. Since this is
12 the first time we're undertaking this work, there are many
13 issues to be worked out. In addition to confirming that
14 the staff of the California Conservation Corps is
15 interested in this project, our staff arranged for a bail
16 test at the Smurfit facility to begin to determine the
17 degree of variability in the bails and the time necessary
18 to sort the carry-out bags in the bails, both of which
19 will affect the number of samples needed and the cost of
20 this effort.

21 The bail sort tests were begun with two bails
22 that represented Smurfit typical sandwich bails. Smurfit
23 estimates such bails are predominately cardboard, but do
24 have about 10 percent plastic on the average.

25 The first bail was sorted in about 15 minutes,

1 and there were no plastic carry-out bags. About ten
2 percent of the entire bail was shrink wrap and garment and
3 product bags.

4 There were shopping bags in the second bail, and
5 staff sorted a sub-sample of the bail into the regulated
6 store supermarket pharmacy bags and the non-regulated
7 store group bags, which took about 15 minutes. We came to
8 determine it was fairly time consuming as each carry-out
9 bag must then be sorted individually to see which store
10 name is displayed on it.

11 So some of the issues that remain are sorting
12 into the regulated versus non-regulated group will be time
13 consuming. So there will be a need to consider sub-sorts
14 of portions of the bails. Since one bail had no shopping
15 bags and any particular bail could have a large or smaller
16 number of shopping bags, it appears it's going to be
17 difficult to reach a truly statistically representative
18 sample with the limited funds available. So we're
19 thinking a statewide average rate is likely to be most
20 representative data.

21 And then we're also working to get more
22 information on the operations at distribution centers and
23 intend to conduct a site visit here in the future. The
24 CCC needs logistical information to develop a price for
25 the interagency agreement. So we're continuing to gather

1 this information to allow the CCC to develop a price for
2 the commingled rate as they calculate it for us into the
3 future.

4 Thirdly, and certainly very high priority for all
5 of us, we have several high priority issues that will be
6 coming over the next several months that deal with the
7 financial assurance requirements faced by landfill
8 operators. As you know, AB 2296 requires the Board to
9 evaluate postclosure funding mechanisms and promulgate
10 changes in the closure cost and postclosure cost
11 requirements in the regulations. The first set of
12 regulations that will be coming to you will deal with the
13 closure costs.

14 In addition, the staff is working on a report
15 dealing with financial mechanisms to address long-term
16 postclosure costs. That will also be presented for your
17 concurrence before the end of this year in time for the
18 January 1st statutory deadline. Further regulations in
19 the area are scheduled for next year as a follow on to
20 that report. It is clear that the Board's focus on
21 financial assurance will lead to a review of existing
22 Board policy and potentially new requirements that effect
23 landfill operators.

24 Solid waste industry representatives have
25 recently raised concerns regarding which cost must be

1 included in these closure cost estimates. We recognize
2 that the industry representatives may have a different
3 approach regarding the approach taken by staff in
4 implementing closure cost requirements. To that end,
5 we've begun conversations with these operators as well as
6 U.S. EPA, State Water Resources Control Board, LEAs, and
7 other interested parties on the topic of what costs should
8 be included in closure cost estimates.

9 We are planning to continue these meetings with
10 the regulated community in October and November to better
11 understand all parties' perspective on closure cost
12 requirements and will further discussions on this issue at
13 the LEA CIWMB partnership conference.

14 To help develop the foundation of understanding
15 on this complex subject, Program Director Ted Rauh and his
16 staff plan to present an information item at the October
17 Permitting and Compliance Committee meeting to lay out the
18 background, issues, and activities that will be coming
19 before the Board in this coming year in this important
20 area. This will also allow the Board the opportunity to
21 discuss and ask questions and provide direction to the
22 staff on the approach we're taking to involve the
23 stakeholders.

24 With that, Madam Chair and members, I conclude my
25 report. And happy to take any questions if you have any.

1 CHAIRPERSON BROWN: Thank you, Mark.

2 Does anybody have any questions?

3 Now actually I'd like to yield the microphone to
4 Member Chesbro.

5 BOARD MEMBER CHESBRO: I was going to bring it up
6 last week during one of the Committee meetings, but I
7 wanted to report to the Board on an example of very
8 innovative and I hope impactful use of TDA in Medocino
9 County. It's going to be -- I think hopefully useful many
10 places in the state, but particularly in rural counties
11 where there's road washouts that have been repetitive
12 problems.

13 And this was an example where an unstable slope
14 had continuously slipped out and the county at great
15 expense tried to keep coming back and refilling it.
16 Instead of refilling underneath the road with soil,
17 there's 160,000 tires that have been chipped up into TDA
18 that will both be porous and allow the water to move
19 through it, but also much lighter. So it's not creating
20 the weight that tends to push and create the ongoing
21 problem with the slide now.

22 Of course, it's just being completed as we speak.
23 So it will have to be tested to see over the long term how
24 it works. But there's a lot of excitement amongst
25 counties that a number -- if this application is

1 successful, it will not only be a great use for old tires,
2 but also a great new engineering innovation that we think
3 will really help stabilize rural transportation. But
4 probably also in some less rural places as well. So I
5 just wanted the Board to know about that.

6 We did get some publicity around the project.
7 You may have seen it in the clips that Lanny distributed
8 to us. He was successful in getting the media interested
9 in the story. So it's being watched by a lot of folks,
10 and I thought the Board members would like to know about
11 that.

12 CHAIRPERSON BROWN: That is great news. Thank
13 you.

14 And now we'll go to the Legislative Director's
15 report.

16 LEGISLATIVE DIRECTOR HUBER: Good morning, Chair
17 and members.

18 You have in front of you a very short
19 presentation. First bullet is on legislation. Out of the
20 54 priority one identified bills for this session, 19
21 actually were enrolled. Two have already actually been
22 chaptered by and sent to the Office of the Secretary of
23 State. And that's SB 1023, recycling of compostable and
24 bio-degradable plastic trash bags, and AB 1048 allowing
25 illegal dumping enforcement officers at the local level to

1 have access to the AG state criminal history information
2 database.

3 And then of the 17 bills remaining, it's a wide
4 gamut of issues you'll find in the attachment. You'll see
5 three regarding special waste, two in the area of green
6 buildings that impact us, two regarding paving material,
7 one on plastics, two on e-waste, two on illegal dumping,
8 one on permitting, one on animal composting, and one on
9 multi-family. What that all means is that the Governor
10 now has until October 14th to take action or no action on
11 these pieces of legislation.

12 And then the last question that has come up is
13 the special sessions that was called by the Governor and
14 all order of business was taken up by both Houses. So
15 there's two special sessions. First session is on health
16 care reform. The second session is on water supply. And
17 no other business or bills or issues can be taken up
18 during these special sessions. So regular session will
19 reconvene in January. Thank you.

20 CHAIRPERSON BROWN: Any questions?

21 Okay. Thank you very much, Elizabeth. Any
22 public comment?

23 Okay. We will move to the consent agenda. Items
24 1 Revised, 3, 4, 6, 7, 10, and 11 are on the consent
25 agenda.

1 Any members wish to pull any of these items from
2 the consent agenda?

3 Do I have a motion?

4 BOARD MEMBER MULÉ: Madam Chair, I'd like to move
5 the consent agenda.

6 BOARD MEMBER DANZINGER: Second.

7 CHAIRPERSON BROWN: It's been moved by Member
8 Mulé and seconded by Member Danzinger.

9 Kristen, can you call the roll?

10 EXECUTIVE ASSISTANT GARNER: Chesbro?

11 BOARD MEMBER CHESBRO: Aye

12 EXECUTIVE ASSISTANT GARNER: Danzinger?

13 BOARD MEMBER DANZINGER: Aye.

14 EXECUTIVE ASSISTANT GARNER: Mulé?

15 BOARD MEMBER MULÉ: Aye.

16 EXECUTIVE ASSISTANT GARNER: Peace?

17 BOARD MEMBER PEACE: Aye.

18 EXECUTIVE ASSISTANT GARNER: Petersen?

19 BOARD MEMBER PETERSEN: Aye.

20 EXECUTIVE ASSISTANT GARNER: Brown?

21 CHAIRPERSON BROWN: Aye.

22 The consent agenda passes.

23 Next we will move to the fiscal consent items.

24 Item 5, 8, 14 and 18 Revised are on fiscal consent.

25 At this time, I'll just mention Items 9, 13, and

1 19 were heard in Committee only.

2 Items 2, 15, 16, and 17 were pulled.

3 And we will hear Item 12 at the conclusion of the
4 fiscal consent items by the full Board.

5 So we'll move first to the Permitting and
6 Compliance Committee. Committee Chair Mulé, do you have a
7 Committee report?

8 BOARD MEMBER MULÉ: Yes, I do, Madam Chair.

9 Thank you very much.

10 We once again had a very busy and full meeting.
11 We heard three permit items; two were placed on consent
12 and one was pulled. Other consent items included the Tire
13 Amnesty Event Grant Program where we revised -- we
14 approved the revisions for eligibility expenses and the
15 award amounts.

16 We also heard and approved the Scopes of Work for
17 both the engineering and environmental services contracts
18 under the Solid Waste Disposal and Codisposal Site Cleanup
19 and Waste Tire Stabilization and Abatement Programs.

20 And the final consent item was completion of a
21 compliance order for the City of Arvin and the issuance of
22 a Compliance Order for the City of Ridge Crest.

23 Fiscal consent, which we will hear shortly, two
24 Farm and Ranch Grant Cleanup Grant awards and the Scope of
25 Work and contractor for the waste tire compliance training

1 for both law enforcement officers as well as other tire
2 enforcement personnel.

3 The only item we heard in Committee only was the
4 direction on the proposed regulations for AB 2449, which
5 is the in-store recycling program. And that direction was
6 to file notice with the OAL to initiate the 45-day comment
7 period.

8 So that concludes my report. Thank you very
9 much.

10 CHAIRPERSON BROWN: Thank you.

11 And next we'll move to fiscal consent, Agenda
12 Item 8. And Ted Rauh to present.

13 PROGRAM DIRECTOR RAUH: I can begin with Item 5.

14 CHAIRPERSON BROWN: Oh, five. Sorry.

15 PROGRAM DIRECTOR RAUH: I'm no name Ted Rauh up
16 here today, also the Program Director for Waste Compliance
17 and Mitigation Program.

18 And Item 5 is consideration of two grant awards
19 totaling \$75,754 for the Farm and Ranch Solid Waste
20 Cleanup and Abatement Grant Program for the first quarter
21 of this fiscal year.

22 And staff recommends that the Board approve the
23 proposed grant awards and adopt Resolution Number
24 2007-195. And that concludes my presentation.

25 CHAIRPERSON BROWN: Thank you, Ted.

1 Any questions on this item?

2 Okay.

3 BOARD MEMBER MULÉ: Madam Chair, I'd like to move
4 Resolution 2007-195.

5 BOARD MEMBER PEACE: Second.

6 BOARD MEMBER CHESBRO: Second.

7 CHAIRPERSON BROWN: It's been moved by Member
8 Mulé and seconded by Member Chesbro.

9 Kristen, can you call the roll?

10 EXECUTIVE ASSISTANT GARNER: Chesbro?

11 BOARD MEMBER CHESBRO: Aye.

12 EXECUTIVE ASSISTANT GARNER: Danzinger?

13 BOARD MEMBER DANZINGER: Aye.

14 EXECUTIVE ASSISTANT GARNER: Mulé?

15 BOARD MEMBER MULÉ: Aye.

16 EXECUTIVE ASSISTANT GARNER: Peace?

17 BOARD MEMBER PEACE: Aye.

18 EXECUTIVE ASSISTANT GARNER: Petersen?

19 BOARD MEMBER PETERSEN: Aye.

20 EXECUTIVE ASSISTANT GARNER: Brown?

21 CHAIRPERSON BROWN: Aye.

22 Thank you. The Resolution passes.

23 Now Item 8.

24 PROGRAM DIRECTOR RAUH: Item 8 is consideration
25 of approval of the Scope of Work and contractor to provide

1 training facilities in support for law enforcement

2 personnel on the waste tire compliance issues.

3 The Board, CHP, waste tire grantees, and local
4 law enforcement staff have discussed a more comprehensive
5 training program to further compliance and waste with
6 waste and used tire regulations. And this program has
7 been put together with that group anticipating reaching
8 out to 200 participants across the state.

9 Staff recommends the Board approve Resolution
10 2007-193 which both approves the actual Scope of Work and
11 the contractor. And that concludes my presentation.

12 CHAIRPERSON BROWN: Thank you, Ted.

13 Any questions on this item?

14 BOARD MEMBER MULÉ: Madam Chair --

15 BOARD MEMBER PEACE: We don't have any questions.
16 But I think all of us on the Committee were kind of
17 concerned that maybe all the training was going to be in
18 San Luis Obispo versus spread across the state and it was
19 going to be three days instead of one or two for like the
20 CHP and tire enforcement grantees who this wasn't the main
21 focus of their job. Would they be able to get that much
22 time off. And I think we decided those were questions,
23 but Darryl Petker had convinced us that he had talked to
24 everyone and this was something that they wanted. So I
25 think we are all willing to see how this program works.

1 And he'll report back. Try it out for a year and see what
2 happens. And so I think we're okay with it.

3 CHAIRPERSON BROWN: Thank you. Thank you, Member
4 Peace.

5 Member Mulé.

6 BOARD MEMBER MULÉ: I'd like to move Resolution
7 2007-193.

8 BOARD MEMBER PEACE: Second.

9 CHAIRPERSON BROWN: It's been moved by Member
10 Mulé, seconded by Member Peace.

11 Kristen, can you call the roll?

12 EXECUTIVE ASSISTANT GARNER: Chesbro?

13 BOARD MEMBER CHESBRO: Aye.

14 EXECUTIVE ASSISTANT GARNER: Danzinger?

15 BOARD MEMBER DANZINGER: Aye.

16 EXECUTIVE ASSISTANT GARNER: Mulé?

17 BOARD MEMBER MULÉ: Aye.

18 EXECUTIVE ASSISTANT GARNER: Peace?

19 BOARD MEMBER PEACE: Aye.

20 EXECUTIVE ASSISTANT GARNER: Petersen?

21 BOARD MEMBER PETERSEN: Aye.

22 EXECUTIVE ASSISTANT GARNER: Brown?

23 CHAIRPERSON BROWN: Aye.

24 Next we will move to fiscal consent items in the
25 Market Development and Sustainability Committee.

1 Committee Chair Peterson, do you have a report?

2 BOARD MEMBER PETERSEN: Good morning, Madam

3 Chair, members of the Board.

4 We had a huge agenda. Everything was pulled. We
5 had an item that's up for approval for the Tire-Derived
6 Product Business Assistance Program. And we also had
7 consideration of grant awards for the Household Hazardous
8 Waste Grant Program 16th cycle. And we also now know more
9 about tires than anybody in the world. We had a two-hour
10 session on Tire 101. And we know how to put air in the
11 tires, and we know about the new flower that the tires
12 have. I forgot the name of the thing. But it was quite
13 an experience. And we learned a lot about what's going on
14 with tires. And that's my report.

15 CHAIRPERSON BROWN: Thank you, Member Petersen.

16 Okay. We'll move to Howard Levenson for consent
17 Item 14.

18 PROGRAM DIRECTOR LEVENSON: Thank you, Madam
19 Chair. And good morning, Board members. For the record,
20 I'm Howard Levenson, Director of the Sustainability
21 Program.

22 Item 14 is Consideration of Clarification to the
23 Scope of Work and Budget for the Sector and Industry-Wide
24 Activities and Amendment to the Scope of Work and
25 Augmentation for the TDP Market Analysis Activities for

1 the Tire-Derived Product Business Assistance Program

2 Contract.

3 Quite a mouthful there.

4 This item concerns two actions for the

5 Tire-Derived Product Business Assistance Program, or TBAP.

6 The first is more explicit delineation of industry and

7 sector-wide activities called for under the existing

8 contract with R.W. Beck. And the second part is to amend

9 that contract in order to initiate tire-derived product

10 market analysis activity that was identified in the

11 Five-Year Tire Plan.

12 The sector and industry wide activities will

13 focus on expanding business opportunities and providing

14 assistance and looking at market development. At the same

15 time, your approval of this item will allow us to jump

16 start the market analysis that's been called for in the

17 Five-Year Tire Plan.

18 I want to thank Calvin and Mitch for all their

19 diligence on this and for leading this innovative program.

20 It is a new approach to looking at tire market

21 development.

22 I also want to reiterate in order to better

23 target many of our efforts, we'll be having our Business

24 Assistance Program staff, our RAC and TDA staff, our Beck

25 contractor and our Ogilvey all getting together

1 periodically so we can share different leads and potential
2 project information. Hopefully try to make the
3 connections a little bit quicker and more efficiently.

4 With that, staff recommends Option 1 and adoption
5 of Resolution 2007-172. Thank you.

6 CHAIRPERSON BROWN: Thank you, Howard.

7 Do we have any questions?

8 BOARD MEMBER PETERSEN: Madam Chair, I'd like to
9 move Resolution 2007-172.

10 BOARD MEMBER MULÉ: Second.

11 CHAIRPERSON BROWN: It's been moved by Member
12 Petersen and seconded by Member Mulé.

13 Kristen, can you call the roll?

14 EXECUTIVE ASSISTANT GARNER: Chesbro?

15 BOARD MEMBER CHESBRO: Aye.

16 EXECUTIVE ASSISTANT GARNER: Danzinger?

17 BOARD MEMBER DANZINGER: Aye.

18 EXECUTIVE ASSISTANT GARNER: Mulé?

19 BOARD MEMBER MULÉ: Aye.

20 EXECUTIVE ASSISTANT GARNER: Peace?

21 BOARD MEMBER PETERSEN: Aye.

22 EXECUTIVE ASSISTANT GARNER: Petersen?

23 BOARD MEMBER PETERSEN: Aye.

24 EXECUTIVE ASSISTANT GARNER: Brown?

25 CHAIRPERSON BROWN: Aye.

1 Resolution passes.

2 And we'll move next to Agenda Item 18, Howard.

3 PROGRAM DIRECTOR LEVENSON: Thank you.

4 Item 18 is consideration of the grant awards for
5 the HHW grants 16th cycle.

6 This year's cycle includes two components. One
7 that's non-competitive and its oriented towards
8 county-wide coordination efforts and one that is
9 competitive and focuses on infrastructure including
10 innovative programs and facility planning.

11 I want to thank Spencer Fine, Bonnie Cornwall,
12 and also Marie Carter from the legal office for their work
13 on making all of the mechanics of this item doable and for
14 getting us in a position where we can award virtually all
15 of the available funding.

16 Before I do provide staff's recommendations, I do
17 want to note for the record there's a typo in Resolution
18 2007-203. We've corrected that. The original amount of
19 the award for Shasta County was missing a zero. So there
20 could have been some misinterpretation whether it was
21 30,000 or 300,000. The Revised Resolution reads 300,000,
22 and everything else in terms of the dollar amounts is
23 correct.

24 So with that, we have 23 coordination grants
25 listed in the item and 22 infrastructure grants. Staff

1 recommends the approval of Option 1 and that the Board
2 adopt Resolution 2007-202 and 2007-203. Thank you.

3 CHAIRPERSON BROWN: Thank you, Howard.

4 Anybody have any questions?

5 BOARD MEMBER PETERSEN: Madam Chair, I'm like to
6 move 2007-202 and 2007-203 Revised.

7 BOARD MEMBER MULÉ: Second.

8 CHAIRPERSON BROWN: It's been moved by Member
9 Petersen and seconded by Member Mulé.

10 Kristen, can you call the roll on these two
11 Resolutions?

12 EXECUTIVE ASSISTANT GARNER: Chesbro?

13 BOARD MEMBER CHESBRO: Aye.

14 EXECUTIVE ASSISTANT GARNER: Danzinger?

15 BOARD MEMBER DANZINGER: Aye.

16 CHAIRPERSON BROWN: Mulé?

17 BOARD MEMBER MULÉ: Aye.

18 EXECUTIVE ASSISTANT GARNER: Peace?

19 BOARD MEMBER PEACE: Aye.

20 EXECUTIVE ASSISTANT GARNER: Petersen?

21 BOARD MEMBER PETERSEN: Aye.

22 EXECUTIVE ASSISTANT GARNER: Brown?

23 CHAIRPERSON BROWN: Aye.

24 Thank you. Both Resolution 2002 and 2003 Revised
25 pass.

1 And we will move next to Item 12, full Board.

2 And Howard.

3 PROGRAM DIRECTOR LEVENSON: That would be me
4 again. Thanks, Madam Chair. In lieu of an extended
5 presentation like we had at the Policy Committee meeting,
6 I'll provide a summary. I won't add the word brief, but
7 we will try to summarize what the approach is and what
8 we've done over the last week for your consideration on
9 this item.

10 As you know, extended producer responsibility
11 generally refers to a policy that would shift the
12 responsibility for the end of life management of discarded
13 products and materials from local government primarily to
14 product manufacturers.

15 This is controversial policy approach. As we
16 talked about last week, California currently addresses
17 these kinds of products with a patchwork of legislation.
18 And the implementation of that legislation is inconsistent
19 among different product categories. Tends to be time and
20 resource intensive the way it's been designed. It
21 generally does not foster improved product design. And
22 it's also as you heard last week and know full well
23 engendered a significant end of life management cost that
24 are carried by local governments.

25 The Board has I think taken a very serious and

1 studied approach to this since adopting its strategic
2 directive in February. We've had a couple of items,
3 workshop in June, a contract report on end-of-life
4 management in July, and now this item. So we've moved I
5 think very rapidly on developing this policy approach and
6 bringing this to the Board's consideration.

7 The people who have done it are not speaking
8 today. They are people like Brenda and Kathy and Robert,
9 Renee and Cynthia all sitting behind me. I'm just the
10 figure head for them. I want to thank them for a
11 tremendous amount of work they did.

12 CHAIRPERSON BROWN: They're just looking over
13 your shoulder to make sure you're keeping it up.

14 PROGRAM DIRECTOR LEVENSON: I'll get the blame.

15 We've parsed this issue in two parts as we talked
16 about last week. The first one is really the primary
17 policy issue. What a broader EPR framework should entail.
18 The bottom line of the framework we developed for your
19 consideration is a more systematic approach than what we
20 see today to end-of-life management.

21 It would entail governments setting the rules to
22 level the playing field and then overseeing
23 implementation.

24 It also would set a focus on product design and
25 source reduction and reuse along with allowing for what

1 will clearly be needed for collection and recycling
2 programs.

3 It would place responsibility on producers to
4 develop and participate with government oversight in
5 programs to address targeted products.

6 It would do this in a manner that provides
7 flexibility to respond to market conditions so that
8 manufacturers could design and implement programs that are
9 most effective for the selected products, including
10 setting up third-party organizations working with haulers,
11 recyclers, retailers, and jurisdictions as the case may
12 warrant.

13 Implementing the framework along these lines,
14 ultimately as we talked about last week, will require
15 statutory authority for the Waste Board to develop
16 governing regulations and requirements regarding target
17 setting, product selection, plan submission and approval,
18 reporting, enforcement, so on. So that is something that
19 will undoubtedly take a long time to work its way through
20 the Legislature. And we'll be watching that.

21 In crafting the revisions in the item in
22 Attachment 1, we tried to respond to the Board's direction
23 and specific comments last week on issues such as source
24 reduction and reuse, not precluding existing programs or
25 other approaches from being implemented or continuing to

1 be implemented, nuance between producers and stewardship
2 programs, the issue of not transferring end-of-life
3 problems overseas. And there's also a stakeholder comment
4 about anti-trust provisions. We've tried to take also
5 into account the need for continuing stakeholder input on
6 this issue.

7 So we believe this framework is a major step
8 forward in this whole policy arena it. It would send a
9 clear message about the Board's commitment and direction
10 on this issue. We also realize this is the beginning of a
11 long process. As I said, we've moved pretty rapidly in
12 the last few months.

13 So we are recommending that the Board adopt this
14 framework. But we recognize that it also warrants further
15 consultation with stakeholders. To reflect all of these
16 issues, we're recommending a new Option 2, which is in
17 both the item and in the Resolution. This option calls
18 for the adoption of the EPR framework as a policy priority
19 for continuation of existing voluntary product stewardship
20 initiatives, and further research along with convening an
21 advisory committee on various product selection issues and
22 any ideas from new voluntary initiatives.

23 It also describes the EPR framework as being used
24 to guide the proposal to seek statutory authority and
25 directs staff to seek additional stakeholder input on the

1 framework, to have some stakeholder consultation to
2 further refine and improve the framework elements.

3 With respect to this latter consultation, if
4 that's what you direct us to do, we could have a workshop
5 for stakeholder input probably most likely in mid-November
6 in terms of trying to get a room and get enough advanced
7 notice out. That might be able to shoot for late October,
8 but more likely mid November. And we can return to you
9 for any suggested refinements shooting for January.

10 The second pathway that I want to mention is
11 whether the Board should consider new voluntary
12 initiatives for targeted products. To explore this, we
13 developed a methodology to assess products for various
14 potential voluntary programs. And as you know, there are
15 different approaches to such a methodology, including
16 using totally different criteria or weighting various
17 criteria definitely.

18 So that is the methodology that we have in
19 attachment -- in the item in the attachments is not
20 something that we had time to vet with, either the
21 approach or the results with the stakeholders.

22 So as a result, we're recommending that
23 additional analysis and consultation involving
24 stakeholders is needed. This would be where we convene an
25 Advisory Committee after we deal with input on the

1 framework itself and come back to you for some further
2 refinement, we could then convene an Advisory Committee
3 and continue work on various aspects of the product
4 selection issue.

5 Before I finish, I do want to mention that staff
6 attended the conference on Canadian stewardship in
7 Vancouver last week. And what we have put together much
8 more extensive notes. Cynthia Dunn went, and she's
9 putting those together. But it's our belief the framework
10 we've proposed here is very consistent with the direction
11 others have taken and what we heard at that conference.
12 It's interesting this was an industry conference, although
13 there were government attendees. The discussion focused
14 on how to further improve existing producer responsibility
15 programs rather than whether or not to have it in the
16 first place.

17 One of the interesting issues raised by the
18 British Columbia Assistant Deputy Minister was their
19 current attempt to make direct linkages between product
20 stewardship programs and climate change requirements. So
21 we'll be working and trying to get more information on
22 that.

23 Another message was the need to take time to
24 understand each other in the regulatory process through
25 stakeholder consultations. And then also stressed was the

1 need for both government and the producers to be able to
2 measure their results with independent information to have
3 transparency and tracking and to have known consequences
4 for non-achievement of goals. Those are all components of
5 the framework that we have before you today.

6 So just wanted to give you a little flavor of
7 some of the discussions that went on in Canada last week.
8 They're similar to many of the discussions that the PSI
9 formus in San Francisco earlier this year as well.

10 That's the end of what I'd like to provide you.
11 We'd be happy to answer questions or walk through the
12 specific changes in the item if you need it.

13 But other than that, I do want to provide you
14 with staff's recommendation, which is to approve Option 2,
15 new Option 2 and Resolution 2007-189 Revised. Thank you.

16 CHAIRPERSON BROWN: Thank, you Howard.

17 Any questions?

18 Member Petersen.

19 BOARD MEMBER PETERSEN: Thank you, Madam Chair.

20 On options for the Board on number 3, Howard,
21 number D --

22 PROGRAM DIRECTOR LEVENSON: Where?

23 BOARD MEMBER PETERSEN: Page 2. Options for the
24 Board, number 3. So are you with me?

25 PROGRAM DIRECTOR LEVENSON: I think so.

1 BOARD MEMBER PETERSEN: There's a D down here.

2 PROGRAM DIRECTOR LEVENSON: 2D.

3 BOARD MEMBER PETERSEN: 1D. Let's go to 1D. It
4 says, "Conduct further research and convene an Advisory
5 Committee to determine and prioritize products for new
6 product stewardship initiatives."

7 Could we -- just point of information. That
8 research that we're doing in the staff and the Advisory
9 Committee is to help the Board specifically to make
10 recommendations to the Board. I just want to be clear
11 that the Advisory Committee, the stakeholders, and the
12 staff are all coming to the Board to do that; right?

13 PROGRAM DIRECTOR LEVENSON: Correct.

14 BOARD MEMBER PETERSEN: It wasn't really clear to
15 me, and it's not clear in the Resolution either.

16 And the other thing I wanted to point out was in
17 2 where it starts with adopt the proposed EPR, it says now
18 the second line, "additional stakeholders." It's not
19 just -- to me, I'd like to add it's not just the
20 manufacturers, but it's the retailers. It's local
21 government. It's all of us combined in that. I don't
22 mean to pick away on this, Howard. But I want to throw
23 that out.

24 PROGRAM DIRECTOR LEVENSON: I'm happy to get the
25 clarification. That's exactly what we intend on both

1 counts.

2 With respect to additional stakeholders, that's
3 everybody: Local governments, retailers, haulers,
4 manufacturers, and so on. We will meet with folks both in
5 an open public forum and be willing to meet with them one
6 on one as well as to get their perspectives and bring that
7 back to you on the framework hopefully in January.

8 With respect to the product selection and
9 continuing research, what we would envision is working
10 with you to establish an Advisory Committee probably
11 having some sort of input in the spring/summertime
12 depending on how long we need, and again returning to you
13 with recommendations on whether to refine the methodology
14 or anything that that group brings forth. And we would
15 try to do that with certainly folks from around the
16 country, internationally if we can. Try to use some of
17 our new technologies for go-to meetings so people don't
18 have to be here. They can be online and interacting with
19 us in that fashion.

20 CHAIRPERSON BROWN: I think, Howard, Member
21 Petersen's concerns could be addressed by just adding at
22 the end of D by, "for consideration by the Board," at the
23 end of it. And that way the Advisory Committee is putting
24 together the list, the proposed methodology and determine
25 and prioritize products for future new product stewardship

1 initiatives for consideration by the Board.

2 BOARD MEMBER PETERSEN: That works.

3 PROGRAM DIRECTOR LEVENSON: We can put that
4 revision in later today.

5 BOARD MEMBER PETERSEN: Thank you.

6 CHAIRPERSON BROWN: The other one, solicit
7 further input from a broad stakeholder community. The
8 broad stakeholder community.

9 PROGRAM DIRECTOR LEVENSON: We've got it.

10 BOARD MEMBER PETERSEN: Thank you, Madam Chair.
11 Thank you, Howard.

12 CHAIRPERSON BROWN: Any other Board questions?
13 Member Peace.

14 BOARD MEMBER PEACE: I just had a comment. The
15 producer responsibility has links to not only climate
16 change, but the green chemistry initiative we heard last
17 week. It's all intertwined. And I'm glad to see that the
18 Board can take a lead on this. I know it will be a long
19 process to get this -- get any legislation, but we need to
20 start the dialogue and to get it going. And I just hope
21 California has a political will to do what the European
22 Union and Canada has already done.

23 CHAIRPERSON BROWN: Thank you, Member chesbro.

24 BOARD MEMBER CHESBRO: Yes. I want to commend
25 staff. Last week, I felt sort of an unnecessary -- I hope

1 unnecessary divide appear that seemed to be go forward or
2 slow down. And I think that staff managed to come up with
3 a solution which assured me and hopefully anyone who's
4 listening that the Board intends to move forward. But at
5 the same time, not foreclose the continuing evolution of
6 this thing and continued work on it. And I think that's
7 the balance that incorporates all of our concerns. So I
8 think that was well done. I want to commend that.

9 The only critical comment I have -- and I don't
10 think we need to change any wording today. I just think
11 it's one of the things we can work on some more as it goes
12 forward.

13 I appreciate the effort with regards to the
14 question of the way the staff language puts it as
15 transferring EOL management problems to other states and
16 countries. That came close, but didn't totally encompass
17 what I was talking about. But we can work on making sure
18 as this thing goes forward that takes place. I'm not
19 going to make any changes.

20 I'm going to say it's a little bit bigger than
21 that and has more to do with -- in addition to this, I
22 think this is good. More clearly stating that we're -- I
23 don't know how to do this in a non-defensive way. That's
24 probably why staff didn't come up with anything. We're
25 not talking about simply collection and better disposal or

1 export. We're talking about reduction, redesign. Four
2 R's: reduce, redesign, reuse, and recycle. And that's the
3 disposition that all of this is about, not -- and it is
4 said throughout the document I think a pretty strong
5 statement that not simply collecting for something that
6 could result in what you addressed here in the language
7 you did put forward. So I don't want to wrangle the words
8 today. I think it's been otherwise a very, very good
9 document.

10 CHAIRPERSON BROWN: I agree. You addressed all
11 of the feedback and concern by the Board members. And I
12 appreciate your incorporating that into the new item. And
13 further refinement is possible. I think that was the word
14 Howard used. Further refinement.

15 Do we have any other Board member questions? I
16 have two speakers before we move the item.

17 Member Mulé.

18 BOARD MEMBER MULÉ: Very briefly, Madam Chair.
19 Thank you.

20 I just want to thank staff for the great work
21 that you did in the short time period in terms of taking
22 all of our concerns and thoughts and ideas from last week
23 and putting it into a revised document that I am now
24 comfortable with supporting. Howard, as you know, I just
25 wasn't comfortable at first with the original document.

1 But with all the changes that you put in into place, it's
2 all very good. Just knowing that we will continue the
3 dialogue with all the stakeholders to ensure that we move
4 ahead -- that we move ahead, but we move ahead
5 cautiously. So thank you very much, staff, for all your
6 work. Appreciate it.

7 CHAIRPERSON BROWN: Thank you. We have two
8 speakers. Larry Sweetser.

9 MR. SWEETSER: Good morning, Board members.
10 Larry Sweetser on behalf of the Rural Counties
11 Environmental Services Joint Powers Authority.

12 We do support the extended producer
13 responsibility concept as you heard in Committee by a
14 number of our members. We understand the need for the
15 stakeholder process and we wholeheartedly support the
16 focus where all the stakeholders can hash out all the
17 issues. The stakeholders can address many aspects that
18 were outlined in the framework and in the recommendations.
19 But I think there's going to be limits to their solution.

20 A key component of the success will eventually
21 require some form of legislation. And that's mentioned in
22 the attachment. We're requesting that you include some
23 aspect of that explicitly in the resolution supporting
24 that there be some sort of -- the stakeholders, one of
25 their charges, would be to help frame some sort of

1 legislative approaches in addition to what's already
2 outlined in number two. It says that the Board will seek
3 legislative authority, but it doesn't really mention all
4 the other aspects that will probably be needed in the
5 Legislature. We're urging you include some form of that
6 up front.

7 So the stakeholders are ready now. A lot of the
8 discussions have occurred. So we urge you to go forward
9 as expeditiously as possible. Thank you.

10 CHAIRPERSON BROWN: Thank you very much, Larry.
11 Debbie Rafeal, City and County of San Francisco.

12 MS. RAFEAL: Good morning, Board members and
13 staff.

14 I would like to start my remarks based on
15 something that Mr. Leary said. When he was giving his
16 report, he talked about this idea of precaution and that
17 the Waste Board is working with OEHHA to look at how we
18 apply precaution across all the DBOs in Cal/EPA. As you
19 know, San Francisco has spent a lot of time thinking about
20 how you apply precautionary thinking to policy.

21 One of the keys in precaution, what it really
22 tells decision makers, is that when you have sufficient
23 evidence of harm, it is incumbent on government to take
24 anticipatory action to protect environment and human
25 health. I think we're way beyond the point of

1 anticipatory action in the case of end-of-life management.
2 I think all of us understand that it's not that we're way
3 out there in front of the issue. We've got a lot of
4 catching up to do.

5 And I want to really reiterate Mr. Sweetser's
6 comments and concerns about what looks to me -- I just
7 have to say when I look at Option 2, it feels like a more
8 study, more study answer. And what precautionary thinking
9 directs us to do is to say at some point we have enough
10 information, we know what we need to do, and it's time to
11 take decisive action.

12 When I first came before you and we talked about
13 this, I heard this incredible enthusiasm directing staff
14 to come up with legislative proposals, which they came up
15 with an incredibly well thought out framework. There has
16 been tremendous stakeholder involvement in this process.
17 This has not been a closed door process by any means. You
18 yourselves have held hearings. You've commissioned
19 studies. There's been going to conferences
20 internationally. I think the information is there. And I
21 think that Option 2 does not have that same commitment to
22 action that Option 1 does.

23 And I'd like to just point out that deleted
24 Option 1A which is just so missing in Option 2. And it's
25 basically what Mr. Sweetser was saying that the rural

1 counties understand there's got to be legislative action.
2 And we believe you need to be explicit in Option 2, that
3 that is your goal. Of course, you're going to involve
4 stakeholders and the development of legislative
5 initiatives is by very definition a public process. So I,
6 for one, am not worried about everybody weighing in. I'm
7 worried about you showing your intent for legislative
8 change. Thank you.

9 CHAIRPERSON BROWN: Debbie, I don't know if
10 you're looking at the revised agenda item that was posted
11 yesterday. Option 2A is adopt the EPR framework, which is
12 exactly what Option 1A is.

13 MS. RAFEAL: So are Larry and I not looking at
14 the right thing where it just talks about -- I circled it.
15 Hold on a second. I may be looking at the wrong one. But
16 when I look at Option 2, it says prior to guide proposals
17 to seek statutory authority. So it doesn't say --

18 CHAIRPERSON BROWN: Howard, would you address --

19 MS. RAFEAL: Am I looking at the wrong one?

20 BOARD MEMBER DANZINGER: Is your version
21 underlined?

22 PROGRAM DIRECTOR LEVENSON: Option 2 does say --
23 it's not part A, but it's the beginning of Option 2.

24 CHAIRPERSON BROWN: You're reading the Preamble.
25 But Option 2B is to adopt the EPR framework.

1 MS. RAFEAL: So what I'm looking at then is the
2 fact that the old Option 1 -- if you look at B. I'm
3 sorry. I meant B.

4 So B talks about legislative proposals. That is
5 taken out of Option 2. And we just talk about what Larry
6 was referring to with to seek statutory authority. And
7 maybe there's a subtly I'm missing here. When we read
8 this in local government, we feel like it's missing that
9 direction. If that's your intent, I would just like it to
10 be explicit. And you're not sure if it's your intent,
11 then that's a statement.

12 CHAIRPERSON BROWN: I'd be happy to answer that
13 question if somebody else wants to answer it or address it
14 as well, I'd be happy.

15 There is a subltly in there. I think it is the
16 intention of this Board that we seek legislative
17 authority. That's what statutory authority is. But I
18 think that going through the legislative process we
19 understand is to be a little bit more lengthy than just
20 coming up with a proposal in January. And we want to make
21 sure that we put forward a thoughtful, well-developed
22 legislative proposal that can stand on its own over in the
23 Legislature and that we have a robust discussion with our
24 stakeholders here about seeking additional statutory
25 authority before we put a proposal in.

1 BOARD MEMBER CHESBRO: Madam Chair, the one thing
2 I heard Mr. Sweetser say that I think is reasonable is
3 that in the resolution in the direction to the framework
4 or the stakeholder input process that we have that address
5 the development of proposals for statutory change. So
6 that it's not so vague a direction about what the
7 stakeholder's job is. It doesn't become a debate should
8 we do this or not, but what should the proposal be. I
9 think that's what I understood Mr. Sweetser to say.

10 So in the resolve, I think if we added to seek
11 additional input from stakeholders on the framework and on
12 the development of proposals for statutory change, that
13 would give a little more direction in terms of what the
14 stakeholders are talking about. I don't know how the
15 other members feel about that. But I thought that was a
16 reasonable thing for him to request of us.

17 BOARD MEMBER MULÉ: I guess just from my
18 perspective, I feel that it goes without saying that we
19 seek stakeholder input on all aspects of this whole
20 initiative. Not just the framework, but when and how we
21 seek statutory authority. So again, to me, that's just
22 the way that we conduct ourselves here at the Board. I
23 understand your concern, Larry. But I guess my thought is
24 we do that as a business practice anyway.

25 MR. SWEETSER: Larry Sweetser again.

1 I think we're all on target. And Mr. Chesbro put
2 it a little more elegantly than I did. The stakeholder
3 group will be looking at a lot of issues, not just
4 legislation. And there's a lot of policy issues, a lot of
5 common practices that can be done.

6 One of the things we felt they should be looking
7 at -- I think this fits in with what Debbie mentioned is
8 there is going to be need for legislation. And they do
9 need to be looking at that. It is mentioned in the
10 attachment as part of the framework. It's clearly
11 underlined, staking statutory changes. We were just
12 asking to put that a little more prominent.

13 BOARD MEMBER DANZINGER: I would argue, Larry,
14 that what we have in Option 2 actually reflects that,
15 because what we've done here is acknowledge that we -- not
16 in writing, but we acknowledge we are going to have to go
17 with a legislative solution.

18 And I mean, you know, I'm as anxious as anyone to
19 go there. You look at where the 939 success has been, and
20 that exposes the gaps. And the big gap is the commercial
21 sector. We are firmly on record there.

22 We're passed the point as you were mentioning of
23 like is this an issue that we go to. I mean, you know,
24 we're beyond that. We're over that. Now we're thinking
25 ahead to how are we going to get this done. And so we're

1 looking ahead to the action stage which we already know is
2 going to be daunting. There are going to be a whole host
3 of folks that are going to try to break this down. And so
4 what we want to do is make our position as strong and
5 defensible as possible so we have the fullest stakeholder
6 input that captures everything.

7 You were talking about the stakeholder group, the
8 stakeholder group. The only stakeholder group that's been
9 enveloped around this thus far is supporters. So we have
10 to broaden that and incorporate all of that. And so again
11 looking ahead to that stage where we're going to -- if
12 it's going to be the legislative arena and it's going to
13 be the statutory authority and all that, we just have to
14 have our ducks lined up. And to me, that's what the
15 Option 2 sort of sets the stage for. So I don't see any
16 problem with it. I don't have a problem with what you
17 were talking about in the resolve, because you know, I
18 think it's implicit. But if we want to state it, I'm fine
19 with that as well.

20 MR. SWEETSER: We think it would help to state
21 that in the Resolution.

22 BOARD MEMBER CHESBRO: You're going to restate it
23 for me before we resolve it.

24 BOARD MEMBER CHESBRO: Go down to the
25 "Furthermore, the Board adopts," then it comes to, "seek

1 additional input from stakeholders on the framework." You
2 with me?

3 CHAIRPERSON BROWN: Are you on the front of it or
4 the back of it?

5 BOARD MEMBER CHESBRO: In the second paragraph of
6 the resolve.

7 CHAIRPERSON BROWN: I have the old one. So I'll
8 just have you read it into the record.

9 BOARD MEMBER CHESBRO: Maybe I should read that
10 sentence, complete the sentence.

11 "Furthermore, the Board adopts the EPR framework
12 presented in Attachment 1 as an overall policy priority to
13 guide proposals to seek statutory authority and direct
14 staff to seek additional input from stakeholders on the
15 framework." And I would add, "and on the development of
16 proposals for statutory change." And then it would go on
17 the way it currently reads. "And return to the Board for
18 further refinement," et cetera.

19 I just think it's clarification. I agree with
20 Rosalie's comments that it's implicit. It just in fact
21 refers earlier in that sentence to statutory change. I
22 just think in terms of directing what kind of discussion
23 we expect from the stakeholders, it's more proactive is
24 all. But it is a rhetorical difference. I don't see it
25 as a huge difference. I wouldn't want to have a divided

1 vote on some language like that.

2 BOARD MEMBER DANZINGER: I don't want you to take
3 the edge of my comment as like an insult. It's just that,
4 you know, we're there. And please don't worry.

5 CHAIRPERSON BROWN: I'm fine with that change.

6 BOARD MEMBER CHESBRO: If there's not objections,
7 I'll suggest that we incorporate that into the motion.

8 CHAIRPERSON BROWN: We do have two other
9 speakers. Bob Hoffman, Osram Sylvania.

10 PROGRAM DIRECTOR LEVENSON: Madam Chair, just for
11 clarification on the therefore be it resolved phrase,
12 would it be your direction that we include the same
13 changes that we have in the Option 2 on the item into the
14 Resolution? In other words, the broad stakeholder
15 community phrase as well --

16 CHAIRPERSON BROWN: Yes. Absolutely.

17 PROGRAM DIRECTOR LEVENSON: -- for consideration
18 by the Board.

19 CHAIRPERSON BROWN: Thank you.

20 MR. HOFFMAN: Good morning, Madam Chair and
21 members. My name is Bob Hoffman. I'm here representing
22 Osram Sylvania.

23 Sylvania wishes to initially commend staff on
24 their continued excellent work. The staff has been very
25 responsive and acted in good faith to address the

1 directions of the Board and the commentators.

2 However, Sylvania continues to have fundamental
3 concerns with the recommended framework as drafted. We
4 think you're very, very close. However as Mr. Weinert
5 stated at the September 11th Committee meeting, Sylvania,
6 while in support of producer responsibility and being
7 willing to play a key role in addressing end-of-life
8 issues, has a problem with the exclusive focus on
9 producers and some of the language. End-of-life issues
10 are not the exclusive domain of producer and not all
11 products are amenable to producer sponsored programs.

12 We believe many of the proposed changes to the
13 framework and related documents reflect that staff is
14 sensitive to the fact that one size EPR will not fit all
15 products. However, we believe that some additional
16 changes should be made.

17 Specifically, the proposal continues to include
18 definitive statements about the primary responsibility of
19 producers for end-of-life programs and the universal
20 imposition of end-of-life costs into product price. These
21 definitive statements are not appropriate for a
22 comprehensive flexible guiding policy that will cover
23 different products. That is intended to govern the
24 ongoing discussions with stakeholders.

25 In particular, Sylvania is concerned with the

1 definitive statements regarding cost allocation. With
2 energy efficient lighting in particular, the cost of
3 end-of-life management may best be borne by all
4 electricity consumers rather than just on product users.
5 So although the current version of Attachment 1 is much
6 improved -- and again, we want to acknowledge staff for
7 their work on that. We think it still needs some
8 refinement to govern these key policy issues going
9 forward.

10 Finally, you know, in the event that you do move
11 forward with Option 2 today, we want to note that we
12 continue to take issue with Attachment 3. We believe that
13 the methodology employed in the document is technically
14 flawed as it makes subjective value judgments and does not
15 rely on data and information that's been substantiated.

16 We understand that Attachment 3 is not part of
17 the proposed action today. However, we want to reiterate
18 that more deliberation is clearly needed to develop EPR
19 product selection guidance.

20 So finally, Sylvania feels that while the
21 proposal is better, it's still not ready to be adopted.
22 And we request that the Board obtain at least one more
23 round of input from critically impacted stakeholders. We
24 think that can be done quickly. Thus, we support Option 4
25 today, and we commit to work closely with Board staff to

1 refine the proposal and bring it back to you.

2 We're confident that as Jeff was indicating that
3 the additional input from key stakeholders who might have
4 been supportive to date will be useful and advantageous to
5 the Board and it will help to adopt an effective EPR
6 process.

7 If you do move forward with Option 2 today,
8 however, Sylvania commits that we will work with you
9 regardless of our problems with the language of the
10 framework. Thank you.

11 CHAIRPERSON BROWN: Thank you very much, Bob.

12 BOARD MEMBER DANZINGER: Can I make a quick
13 comment regarding that?

14 You know, not get into details on that. But you
15 know, the term primary responsibility, you know, primary
16 responsibility doesn't mean not shared. So I think that
17 the framework clearly reflects, you know, a deference to
18 the shared. I think the primary is largely -- I'll speak
19 for myself. And I don't -- if there's an imbalance that's
20 been in place for years, it's the imbalance of all these
21 other players. At least from the 939 perspective, you
22 know, has been local governments and the waste industry
23 and millions of Californians have changed their
24 behavior.

25 So I think again to defend the framework again, I

1 think the intent of the framework is to achieve some
2 balance that isn't there right now. And what that
3 reflects is not a desire to place onerous requirements on
4 businesses that ensures failures, but to find -- you know,
5 again to collect the imbalance and make things right.

6 CHAIRPERSON BROWN: Well, and the primary
7 responsibility lies with the person who has the ability to
8 redesign a material to more easily managed throughout its
9 life, from my perspective.

10 Also I just want to point out, Mr. Hoffman, that
11 hopefully -- I mean, I still support Option 2. Option 2
12 Item B says, "solicit further input from the stakeholder
13 community to further refine the framework." So I hope
14 that that addresses your concerns, and that's what we were
15 hoping to achieve. As we adopt this framework, we further
16 seek input for refinement and creation of the Advisory
17 Committee to look at the methodology for selection of
18 possible products.

19 So any other comments or questions?

20 Okay. And our last requested speaker at this
21 time, because there may be more, is Bill McGavern.

22 MR. MCGAVERN: Good morning. I'll Bill McGavern
23 with Sierra Club, California.

24 Want to thank the Board and the staff for what I
25 think is your very sincere commitment for moving forward

1 with producer responsibility. So I'm really happy that
2 this day has come. And of course, it's the beginning of
3 what will be a challenging process for all of us.

4 But for too long we've put the burdens of dealing
5 with the waste on local governments. And it's about time,
6 as the comments just made by Mr. Danzinger and Ms. Brown
7 have suggested, it's about time that we balance that out.
8 And it really is fair and appropriate and effective that
9 we ask those that are designing, manufacturing, and
10 profiting from these products to start to play their part
11 in the end-of-life disposition of them. And I think we're
12 seeing broadly among the different boards and departments
13 at Cal/EPA a recognition that we need to move more towards
14 a pollution prevention approach and not just deal with the
15 back end of the problem. So I think we're pretty much in
16 agreement on that.

17 I had a few reflections on how we move forward
18 here. And I think as some people have said, the
19 legislative process by its nature is a public process.
20 You have a public process at the Board. So you know,
21 we're very much in favor of public participation. I think
22 that's pretty much guaranteed here. I think I have more
23 of a concern that something might be kind of workshopped
24 to death or watered down to the point of meaninglessness.
25 And I think we all know what that would look like.

1 So it absolutely is appropriate and fair to talk
2 to everybody, to listen to everybody. Certainly nobody
3 should be frozen out. But I think also nobody should have
4 a veto. So I'd be very concerned if a stakeholder process
5 meant that you only go forward with something that has
6 consensus of everyone. And I'm really familiar with
7 consensus processes. We use them in the community that I
8 live in. But that's not actually the same thing as the
9 way a democratic process is supposed to work.

10 And so I don't think I should have a veto. I
11 don't think the manufacturer should have a veto. I think
12 you have that open discussion and then you move forward.
13 And when you do that, I certainly commit to helping and
14 the Sierra Club will help in moving forward strong
15 producer responsibility legislation with you. Thanks.

16 BOARD MEMBER CHESBRO: And that was really part
17 of the reason for Mr. Sweetser's suggestion. And I think
18 the additional language is to send a slightly clearer
19 message that the purpose of the stakeholder group is not
20 to workshop it to death. But rather to proceed towards a
21 proposal.

22 CHAIRPERSON BROWN: Well, or to put the process
23 in a consensus mode either. Because as you mentioned,
24 Bill, it's not the group or the stakeholders that develop
25 the legislative proposal. We take the input from the

1 stakeholders with no veto or authority on any part and we
2 develop the legislative package that moves forward. And
3 then the public process continues from there. So we just
4 want to make sure we have a robust discussion here so we
5 anticipate what needs to be discussed over in the other
6 building.

7 MR. MCGAVERN: I think that's wise. And of
8 course you have an expert on the legislative process on
9 your Board.

10 CHAIRPERSON BROWN: Thank goodness. I appreciate
11 your input. And obviously we will look forward to a broad
12 stakeholder community participating in the somewhat
13 shortened, not workshopped to death, process that we hope
14 to unfold in the next few months.

15 I think Howard has laid out somewhat of a time
16 line we had expressed last Tuesday not to put this in the
17 limbo mode of talking this to death.

18 PROGRAM DIRECTOR LEVENSON: For those who are
19 listening here in the audience or on the web cast, we will
20 probably shoot for November 14th. That's just a tentative
21 date, but I'll throw it out. We can get one of these
22 rooms. It's the second day of our November Board meeting.
23 So that's what we'll shoot for. We'll try to get an
24 announcement out relatively soon on the exact date.

25 CHAIRPERSON BROWN: That's perfect. Thank you.

1 Member Petersen.

2 BOARD MEMBER PETERSEN: I'm just over here ready
3 to move this thing forward and get thing.

4 Madam Chair, I'd like --

5 BOARD MEMBER DANZINGER: We've been wasting our
6 time. You're ready to do this.

7 CHAIRPERSON BROWN: You're on the giddy up.

8 BOARD MEMBER PETERSEN: It's a full on giddy up
9 with me.

10 I'd like to move Resolution 2007-189 Revised as
11 amended.

12 BOARD MEMBER MULÉ: Second.

13 CHAIRPERSON BROWN: It's been moved by Member
14 Petersen and seconded by Member Mulé with the amendments
15 previously mentioned by Member Chesbro to for the
16 therefore be it resolved section.

17 BOARD MEMBER CHESBRO: And Mr. Levenson also
18 asked for a modification.

19 CHAIRPERSON BROWN: And also those parts of
20 Option 2 that were incorporated with Member Petersen's
21 suggestion at the beginning of our discussion.

22 Kristen, can you call the roll?

23 EXECUTIVE ASSISTANT GARNER: Chesbro?

24 BOARD MEMBER CHESBRO: Aye.

25 EXECUTIVE ASSISTANT GARNER: Danzinger?

1 BOARD MEMBER DANZINGER: Aye.
2 EXECUTIVE ASSISTANT GARNER: Mulé?
3 BOARD MEMBER MULÉ: Aye.
4 EXECUTIVE ASSISTANT GARNER: Peace?
5 BOARD MEMBER PEACE: Aye.
6 EXECUTIVE ASSISTANT GARNER: Petersen?
7 BOARD MEMBER PETERSEN: Aye.
8 EXECUTIVE ASSISTANT GARNER: Brown?
9 CHAIRPERSON BROWN: I'll try to do that just --
10 aye.
11 Thank you, Jeff.
12 Okay. I think that's it. Any other new
13 business? Any other public comment? Old business. This
14 meeting is adjourned.
15 (Thereupon the California Integrated Waste
16 Management Board adjourned at 10:54 a.m.)
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1 CERTIFICATE OF REPORTER

2 I, TIFFANY C. KRAFT, a Certified Shorthand
3 Reporter of the State of California, and Registered
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5 That I am a disinterested person herein; that the
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8 State of California, and thereafter transcribed into
9 typewriting.

10 I further certify that I am not of counsel or
11 attorney for any of the parties to said hearing nor in any
12 way interested in the outcome of said hearing.

13 IN WITNESS WHEREOF, I have hereunto set my hand
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